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The undersigned certifies that this communication is being deposited with the United States Postal Service as prepaid first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 16, 2003.

Joanna Kneller

Joanna L. Kneller

linda 7/23/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Singh, Y.	
Serial No. 09/821,348	
Filed: March 29, 2001	Group Art Unit: 1645 Examiner: Portner, Virginia Allen
For: A NOVEL PROTEIN MOLECULE USEFUL FOR ANTHRAX TOXIN INHIBITION IN VIVO	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SIR:

RESPONSE TO RESTRICTION

In response to the Restriction Requirement under 35 USC §121 mailed from the USPTO on June 18, 2003, the Applicant herein provisionally elects to prosecute Group I, set forth by the Examiner, i.e., claim 1, with traverse.

The Group I claim (claim 1), as set forth by the Examiner, is particularly drawn to a specific protein encoded by the nucleic acid of Group II (claim 2). Group III (claim 3) merely

recites a specific pair of nucleic acid primers that encompass the claim 2 mutation.[1] The Group IV claims set forth by the Examiner specifically employ the primers of claim 3 to produce the nucleic acid of claim2 to encode and produce the protein of claim 1. Since the subject matter presented by the Applicants is necessarily and intimately related, a single search is required to evaluate the novelty of the subject matter of claims 1-11. The Group IV claims, as classified by the Examiner, are merely drawn to methods of using the composition of matter described in the Group III, and II claims to produce the subject matter of Group I. Accordingly, since the subject matter of Group IV claims *is limited to* the composition of matter of the Group III and II claims, if the subject matter of the Group I claims is novel and non-obvious, as a corollary the subject matter of the Group II, Group III and Group IV claims is *necessarily* novel and non-obvious as well. Therefore, a 'serious burden', as required, does exist on the Examiner to examine Groups I-IV together. See, MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02.

The Applicants therefore respectfully request the Examiner to combine the claims and examine Groups I-IV (claims 1-11) together.

In the alternative, in order to expedite prosecution, since the Group IV process claims presented herein depend from or otherwise include all the limitations of the Group II and III product claims, and in view of the Applicants' provisional election of the Group I claims, the Applicants respectfully request Group II, Group III and Group IV claims to be *rejoined* and prosecuted simultaneously with the Group I claims. Rejoinder, MPEP §821.04.

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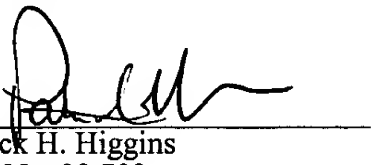
[1] The examiner is also respectfully referred to § 803.04 of the Manual of Patent Examining Procedure (MPEP):

> *803.04 Restriction - Nucleotide Sequences*
> Nucleotide sequences encoding different proteins are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleotide sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141 *et seq.* Nevertheless, to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application.

The Applicants respectfully request the Examiner to examine claims 1-11 together. The Examiner is also encouraged to telephone the undersigned in order to expedite any detail of the prosecution.

Respectfully submitted,



Patrick H. Higgins
Reg. No. 39,709
Attorney for Applicants

DATE: July 16, 2003

MATHEWS, COLLINS, SHEPHERD & McKAY, P.A.
100 Thanet Circle, Suite 306
Princeton, New Jersey 08540-3662
Telephone: (609) 924-8555
Telecopier: (609) 924-3036